IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 29061 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LAVJIBHAI JIVRAJBHAI VAGHANI – Petitioner.
Versus
THE CHIEF CONTROLLING REVENUE AUTHORITY & ANR.
-Respondents.

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Appearance :
MR Dhiren K.Mehta for petitioner.
Mr.L.R.Pujari, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 28/12/2007

ORAL JUDGMENT

1. Rule. Learned A.G.P. Mr. L.R.Pujari waives service on behalf of the respondents.
2. By way of this petition, the present petitioners

have challenged the impugned order passed by the respondent no.2-Deputy Collector, Stamp Duty Valuation, Division 2, C/6, Multistoreyed Bldg, Nanpura Surat dated 28-3-2003 as also the order dated 5-10-2007 non entertaining the appeal of the petitioner by the respondent no.1- Chief Controlling Revenue Authority.

3. Heard the learned advocate for the petitioner and Mr. L.R.Pujari, AGP for the respondents.

4. It is submitted by the learned advocate for the petitioner that without giving any details regarding determination of market value, order was passed by the respondent no.2 in a casual manner. It is submitted by him that after taking into consideration certain principles regarding determining the market value of the land, he has passed the impugned order on the basis of which the respondent no.2 has stated that the market value of the property is higher, and therefore, deficit stamp duty of Rs.10,69,832/- and fine of Rs.5000/- was required to be paid to the authorities. Notice dated 31-1-2003 was accordingly sent to the petitioner. It is submitted by him that the respondent authority has not considered the fact that the petitioner has released the property without any consideration under a release deed on 7-5-1994 and the respondent authority has also not considered that the market value was as per Jantri decided by the State. Therefore, it is prayed that the decision of the respondent

authorities is required to be quashed and set aside.

5. In support of his submission, the learned Advocate has placed reliance on – (i) 2003(1) GLR 454 Vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat) and (ii) 2006 (3) GLR 2252 (Mayurkumar J.Patel v. Dy. Collector, Stamp Duty Valuation Department, Rajkot).

6. In the above decisions, it is held by this Court that without giving any reasons and without applying mind towards any of the defences raised by the petitioner therein, the impugned order has been passed.It is also held by this Court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the Court in the aforesaid decision.

7. In the instant case, it is clear that the impugned order does not even recite the basis or calculation for arriving at the market value and therefore, the impugned order cannot be sustained in the eye of law. Reference in this connection may also be had to the decision rendered in the case of Bal Nalkantha Khedoor Mandal vs. State of Gujarat decided on 26th July, 1999 in Special Civil Application no.1731 of 1999 (Coram: Hon'ble Chief Justice Mr. K.G.Balakrishnan and Hon'ble Mr.Justice S.D.Dave).

8. Having considered the aforesaid authorities and

for the reasons as discussed above, in my considered opinion, the impugned orders are passed in breach of the Bombay Stamp(Determination of Market Value of Property) Rules, 1984, as also the guidelines provided by the Bombay Stamp Act of 1958, as they are thoroughly non speaking orders and no reasons have been assigned.

9. In the result, the petition is allowed.The impugned order passed by the respondent no.2-Deputy Collector, Stamp Duty Valuation, Division 2, C/6, Multistoreyed Bldg, Nanpura Surat dated 28-3-2003 as also the order dated 5-10-2007 non entertaining the appeal of the petitioner by the respondent no.1- Chief Controlling Revenue Authority are hereby quashed and set aside. Consequently, the matter is remanded to the respondent no.2 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. The respondent no.2 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order. Rule is made absolute to the aforesaid extent. No order as to costs.

(M.D.Shah,J.)

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